



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 22, 1994

Ms. Alesia L. Sanchez
Legal Assistant
Legal Services, 110-1A
Texas Department of Insurance
P.O. Box 149104
Austin, Texas 78714-9104

OR94-575

Dear Ms. Sanchez:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 27620.

The Texas Department of Insurance ("the department") received an open records request for certain records about Globe Life and Accident Insurance Company and United American Insurance Company. You say the department will release some of the requested information. However, the department seeks to withhold from the public portions of the requested information based on sections 552.103(a) and 552.111 of the Government Code. You submitted what you say are "representative samples" of the requested information.

To secure the protection of section 552.103(a), a governmental body must demonstrate that requested information "relates" to a pending or reasonably anticipated judicial or quasi-judicial proceeding. Open Records Decision No. 551 (1990). In this instance you have made the requisite showing that the requested information relates to reasonably anticipated litigation for purposes of section 552.103(a). The requested records may therefore be withheld.

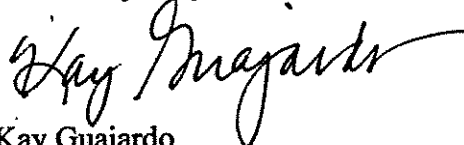
In reaching this conclusion, however, we assume that the opposing party to the anticipated litigation has not previously had access to the records at issue; absent special circumstances, once information has been obtained by all parties to the litigation, e.g., through discovery or otherwise, no section 552.103(a) interest exists with respect to that

information. Open Records Decision Nos. 349, 320 (1982). If the opposing parties in the anticipated litigation have seen or had access to any of the information in these records, there would be no justification for now withholding that information from the requestor pursuant to section 552.103(a). We also note that the applicability of section 552.103(a) ends once the litigation has been concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).

We also assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499, 497 (1988) (where requested documents are numerous and repetitive, governmental body should submit representative sample; but if each record contains substantially different information, all must be submitted). This open records letter does not reach, and therefore does not authorize the withholding of any other requested records to the extent that those records contain substantially different types of information than that submitted to this office

Having concluded that the department may withhold the information based on section 552.103(a) of the Government Code, we need not address your claims under section 552.111 of the Government Code. Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,



Kay Guajardo
Assistant Attorney General
Open Government Section

KHG/SLG/rho

Ref.: ID# 27620

Enclosures: Submitted documents

cc: Erin Powers
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(w/o enclosures)